IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1312 OF 2004

Seva Ashram Shikshan Sanstha
through Shri S.M.Vanarase & Ors. ..Appellants

Versus

Shri L.P.Jagdale and Ors. ..Respondents

Shri D.B.Patil for appellants
Shri R.A.Thorat for respondents

CORAM : P.V.KAKADE,J.
DATE : 16th DECEMBER, 2004

P.C.:

1. Heard the learned counsel for both the parties. Perused the record.

2. In view of the facts and circumstances the appeal is disposed of at the stage of admission.

3. The impugned order passed by Addl. District Judge, Palghar dated 6.11.2004 is under challenged so far as clause 4 thereof is concerned. This is dispute between the Trustees of Seva Ashram Shikshan Sanstha at Palghar, which is having various activities including running of the schools. A Scheme came to be framed by the Asstt. Charity Commissioner of the said Trust which was challenged before the Addl. District Judge, Palghar by virtue of Section 72 of the Bombay Public Trust Act where under there were challenged, inter alia, the legality and propriety of the Order passed by the Asstt.Charity Commissioner, Thane Region, Thane on application preferred by the Opponents in that Application under Section 50A of the Bombay Public Trust Act. While dismissing the application the learned District Judge remanded the matter directing the Asstt. Charity Commissioner to modify the Scheme in the light of the observations contained in para No.13 of the Judgment with special reference to -

(a) He shall make a penal provision as observed by him earlier;

(b) He shall reconsider the names of first Trustees to be appointed by giving opportunity to both the sides to ascertain authenticated list of members.

Clause 4 of the impugned order stipulated that during this period the management of the trust should be entrusted to the trustees appointed by him by the impugned order.

. This present appellants have specific grievance against the said clause with a submission that the said Management who is entrusted affairs of the Trust has started indiscriminate transfers of the teachers of the schools run by the Trust and therefore, this clause may be changed.

4. Having considered all relevant aspects and perusing the impugned judgment I am of the view that the order of remand passed by the Addl. District Judge, Palghar need not be interfered with, as it would be in the interest

of the affairs of the Trust. At the same time it would be necessary to put rider to clause 4 of the impugned order so as to put an end to the controversy sought to be raised on behalf of the appellants.

5. Hence it is hereby directed that the management of the trust, if found necessary to make transfers of the teachers as well as non-teaching staff of the schools. The said orders as well as over all administrative decisions, pending the enquiry by the learned Asstt. Charity Commissioner shall be subject to scrutiny of the Asstt. Charity Commissioner, if any, grievance is to be made in that regard.

6. With this direction the appeal stands disposed of with no order as to costs. Consequently Civil Application also disposed of with no order as to costs.

C.C. expedited.